

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, AFL-CIO,

ASSOCIATION OF ADMINISTRATIVE LAW
JUDGES, INTERNATIONAL FEDERATION OF
PROFESSIONAL AND TECHNICAL ENGINEERS
JUDICIAL COUNCIL 1, AFL-CIO,

VANESSA BARROW, GEORGE JONES, DEBORAH
TOUSSANT, and DOES 1–100,

Plaintiffs,

v.

U.S. OFFICE OF PERSONNEL MANAGEMENT, an
agency of the United States,

CHARLES EZELL, in his official capacity as Acting
Director of the Office of Personnel Management,

U.S. DOGE SERVICE f/k/a U.S. DIGITAL SERVICE,

ACTING U.S. DOGE ADMINISTRATOR,

U.S. DOGE TEMPORARY SERVICE a/k/a the
“DEPARTMENT OF GOVERNMENT EFFICIENCY,”
and

ELON MUSK, in his capacity as director of the U.S.
DOGE TEMPORARY SERVICE,

Defendants.

Case No. 1:25-cv-01237-DLC

PLAINTIFFS’ MOTION FOR A TEMPORARY RESTRAINING ORDER

Pursuant to Federal Rule of Civil Procedure 65, Plaintiffs move for a temporary restraining order that holds: (1) Defendants are enjoined from disclosing to DOGE-affiliated agents any OPM

records, as defined by the Privacy Act; from granting DOGE-affiliated agents access to OPM's records; and from allowing such agents to obtain personal information about individuals contained therein; (2) Defendants are enjoined to ensure future disclosure of individual records will occur only in accordance with the Privacy Act and the Administrative Procedure Act; (3) DOGE Defendants are enjoined to impound and destroy all copies of individuals' personal information that has been unlawfully disclosed by OPM; (4) Defendants are enjoined to file a status report within 48 hours of the issuance of this order indicating whether any DOGE-affiliated agents continue to have access to any OPM systems that contain records and whether DOGE Defendants have destroyed all copies.

The DOGE Defendants include U.S. DOGE Service f/k/a Digital Service ("USDS"), the unidentified Acting Director of USDS, the U.S. DOGE Service Temporary Organization a/k/a the "Department of Government Efficiency" ("DOGE"), and Elon Musk, in his capacity as director of the USDTSO.

Plaintiffs request a prompt hearing on this motion.

Pursuant to Federal Rule of Civil Procedure 65(a), on February 13, 2025, at 12:12 pm ET counsel for Plaintiffs provided email notice to Christopher Hall at the Department of Justice's Federal Programs Branch (Christopher.Hall@usdoj.gov) that they would file a motion for a temporary restraining order with respect to OPM's disclosure to DOGE Defendants, along with a copy of the Complaint. Prior to filing this Motion, Counsel provided Hall, and five other DOJ employees as instructed by Hall, with electronic copies of the complaint, motion for temporary restraining order, and accompanying brief, declarations, and proposed order before completing this electronic filing.

Dated: February 14, 2025

Respectfully submitted,

/s/ Rhett O. Millsaps II

Rhett O. Millsaps II

Mark A. Lemley*

Mark P. McKenna (admitted *pro hac vice*)

Christopher J. Sprigman

LEX LUMINA LLP

745 Fifth Avenue, Suite 500

New York, NY 10151

(646) 898-2055

F. Mario Trujillo (admitted *pro hac vice*)

Victoria Noble

ELECTRONIC FRONTIER FOUNDATION

815 Eddy Street

San Francisco, CA 94109

(415) 436-9333

Norman L. Eisen (admitted *pro hac vice*)

STATE DEMOCRACY DEFENDERS FUND

600 Pennsylvania Avenue SE #15180

Washington, DC 20003

Subodh Chandra*

THE CHANDRA LAW FIRM LLC

The Chandra Law Building

1265 W. 6th Street, Suite 400

Cleveland, OH 44113

**pro hac vice* application pending

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

Counsel for Plaintiffs certify that they have sent—through Defendants’ counsel Christopher Hall at the U.S. Department of Justice Federal Programs Branch —notice of this motion.

Plaintiffs’ counsel will immediately send electronically copies of the filing to Defendants’ counsel and will serve subsequent registered participants electronically and paper copies will be sent to any non-registered participants.

Dated: February 14, 2025

/s/ Rhett O. Millsaps II
Rhett O. Millsaps II